

ANSWER
&
Preliminary Counter
Complaints and Claims

Renzello v. Nelson
Case Number: 05-cv-00153

Pages

1 through 50 of 245

United States District Court for the US District of Vermont

2007 MAR 23 AM 9:07
BY CLERK
DEPUTY CLERK

to Complaint with Preservation of Rights to Counter Complain per
verbal Orders of Judge John Garvan Murtha during Pre-Trial
Conference on 27 February 2007, in Brattleboro, Vermont, USA

NOW HERE COMES, Defendant, Michael Nelson, PRO-SE, via SPECIAL APPEARANCE providing the following preliminary ANSWER to the Court and the Plaintiff, and preliminary Counter Complaints and Claims per Court Orders. Pursuant with ORDERS of the presiding Jurist in this above herein captioned matter, US District Court Judge John Garvan Murtha, the Defendant Michael Nelson, does hereby file this ANSWER, with preliminary counter

1 complaints and claims, however, herein so notes for the record
2 preservation to file detailed Counter Complaints and Claims per
3 rights, which Judge John Garvan Murtha has stated via verbal
4 ORDER of the Court that the Defendant, Michael Nelson, may file
5 Counter Complaints and Claims if this above herein entitled
6 action is NOT settled via COURT ORDERED mediation with the US
7 Federal Magistrate of the US District of Vermont.

8 The Defendant requests all in receipt including PRESIDING
9 JURIST JOHN GARVAN MURTHA utilize the long practiced method of
10 FUNCTIONAL Interpretation in the reading of this answer which
11 has been requested to be so hastily prepared without opportunity
12 to re-file the answer and counter complaints and claims
13 previously received per the USPS Inspector Generals Office.

14 It is so noted herein below and throughout the legal
15 maxims, such as this one as it relates to the commonly
16 recognized methods of approach by Judicial Officers in the
17 examination of the law and the speedy "disposal" of cases:
18 **Functional.** Also called *structural*. Decision based on analysis
19 of the structures the law constituted and how they are
20 apparently intended to function as a coherent, harmonious
21 system. The Latin maxim is *Nemo aliquam partem recte intelligere*
22 *potest antequam totum perlegit*. **No one can properly understand a**
23 **part until he has read the whole.** 3 Coke Rep. 59. It is
24 **requested one reads the WHOLE ANSWER and preliminary Counter**
25

1 **Complaints before they attempt to understand an individual part**
2 **thereof.**

3 This Answer, has been prepared from "scratch" to speak
4 colloquially, as the US District of Vermont claims to have
5 neither received the "preliminary answer" nor the Full Answer
6 and Counter Complaints and Claims.

7 The Defendant does so herein note that Judge John Garvan
8 Murtha ordered the Answer be filed by the end of March 2007 and
9 simultaneously ordered mediation be conducted within 60 days,
10 and a ENE statement filed, Defendant did make known to the Court
11 scheduling conflicts and total in availability during the last
12 couple of weeks of April. Defendant has in the interests of all
13 parties and in attempts to lessen court costs to all including
14 the Federal Government, worked day and night to create this NEW
15 Answer, and now preliminary counter complaints and claims as the
16 belief of the Defendant was there would be "NO WRITTEN ORDER"
17 and then there were apparently TWO (2) Written Order like docket
18 entries to the case, see attached Exhibits annexed hereto ExA&B.

19 EACH and Every Page is packed with important Answers to the
20 Complaint, Evidence, case law citations, legal maxims, other
21 legal references and various points to be proven during Trial by
22 Jury, as the Declaration of Preservation of Rights of the
23 Defendant pursuant with the Seventh Amendment to the US
24 Constitution and what is believed rights under Article III,
25 Section II of the United States Constitution are herein made.

1 To not read every word contained herein in it's entirety means
2 one including the Presiding Jurist may miss critical
3 information, including without limitation those NOTIFICATIONS
4 regarding sensitive information which the Court must decide
5 whether is protected under TITLE 50 of US Code. Especially that
6 information which could be deemed protected under Chapter 15 of
7 the aforementioned US Code Title 50.

8 Additionally other information contained herein pertains to
9 additional litigations which appear to be growing out of this
10 frivolous litigation. The attached Exhibits and annexed hereto
11 documents place extreme legal onus upon the presiding Jurist
12 John Garvan Murtha with regards to the Rules of Professional
13 Conduct of various Attorneys and others members of the Bar
14 Associations of the State of Vermont and the Federal Bar
15 including without limitation Attorneys: John Lyon and David
16 Seth Putter.

17 Additional information is in reference to United States
18 Postal Regulations and investigations as well as criminal
19 investigations and grand juries; each of the Exhibits are
20 expounded upon herein at the end and forward and backwards
21 referenced, the expounded upon exhibits at the end hereof make
22 additional points of law and fact which will and must be
23 examined by the court, the Defendant in the interests of JUSTICE
24 even MINIMAL JUSTICE as the Defendant continually so demands
25 despite the fact the US Supreme Court demands SUBSTANTIAL

1 JUSTICE in matters is being so sought by the Defendant and in
2 the furtherance of standards of minimal justice and to reduce
3 costs to the parties the Defendant has so herein outlined the
4 Exhibits which are referenced herein and are so attached /
5 annexed hereto and incorporated herein for reference these
6 Exhibits are of importance to these documents and certainly to
7 the trial by jury pursuant with 7th Amendment rights which is to
8 follow. The Exhibits are listed stating the page numbers and a
9 BRIEF explanation of the Exhibit for ease in reference.

10 Information and pleadings contained herein this Answer
11 which could potentially pertain to sensitive information is NOT
12 information gained, learned or otherwise divulged to the
13 Defendant while the Defendant's Security Clearances were active;
14 nor at anytime while temporary Security Clearances have been
15 issued by DoD (Department of Defense), the US Army, US Airforce,
16 other service branch of the United States Government or any
17 agency or COUNCIL in possession of sensitive Federal Government
18 information and the authority to issue said clearances. Said
19 information contained therein which may form a defense and is
20 certainly critical to a defense to certain publications made of
21 defamatory nature against the Defendant and submitted to the
22 Court on the Public Record MUST be allowed in form approved by
23 appropriate Federal Authorities and so ORDERED by presiding
24 Jurist John Garvan Murtha pursuant with his "close control" of
25 these legal proceedings as Judge John Garvan Murtha stated at

1 the hearing / conference on 27 February 2007, that he has
2 personally been closely monitoring this above herein referenced
3 litigation since it's inception and will maintain close control
4 thereof.

5 Additionally no information contained herein was learned or
6 garnished from any of the Defendant's work in the "Nevada
7 Desert"...the Defendant so herein states information which may be
8 viewed as sensitive has been either temporarily redacted via
9 directed removal or "adapted" and information on the public
10 record from other news-reports has been placed therein, this
11 information as it relates to those individuals appointed by
12 various either former or currently sitting Presidents of these
13 the United States of America, are referenced by title, rank,
14 position only and not directly by name, although upon TRIAL by
15 JURY the names thereof must be entered to this record and
16 subpoenas so issued to bring forth the TRUTH as it is the duty
17 of the Court to seek the Truth if this honorable court so
18 believes this case should continue given the Answer set forth
19 herein above and below.

20 Defendant herein notes for the record that the miss-
21 handling of mail pre-paid and placed with the United States
22 Postal Service for Delivery to the United States District of
23 Vermont in Burlington and in some cases to Brattleboro as well
24 has been severely miss-managed and handled, in violation of the
25 law. As a result the Defendant has personally made formal

1 complaint to United States Postal Service DHQ covering both
2 Rhode Island and Vermont regarding this "missing" mail and miss-
3 management and miss-handling of mail. Additionally formal
4 investigations have been underway and new complaints filed with
5 the assistance of Federal Officers, agents and lawyers. The
6 Court should take specific notation and advisement of Exhibits,
7 annexed hereto for reference a "missing" and un-docketed filing
8 which was ABSOLUTELY received by the Court according to the
9 United States Postal Inspector Generals office.

10 These documents were placed in the United States Postal
11 Services care for delivery, however, it still has yet to be
12 docketed to the court record and is now attached hereto as
13 Exhibits, as is referenced herein above and will be referenced
14 herein below.

15 The Defendant so herein notes that numerous legal filings
16 duly made to the court pursuant with the Federal Rules of Civil
17 Procedure (FRCP) and made in accordance with the Local Rules of
18 the Court have been illegally and unfairly denied by the
19 prejudicial court in these proceedings as one such example the
20 Defendant draws the Court's attention to Local Rule 5.2(a),
21 wherein the Defendant did as the rule suggests: "Parties or
22 counsel wishing to confirm that no financial conflict-of-
23 interest exists in cases as assigned may obtain a copy of the
24 Court's recusal list upon written request to the Clerk of
25 Court", see L.R. 5.2(a) found on page 4 of the "United States

1 District Court District of Vermont Local Rules of Procedure"
2 dated June 1, 2006; upon non-answer of the Clerk of the Court,
3 Richard Paul Wasko (whom other charges of misconduct have been
4 duly and appropriately filed against) the Defendant did so make
5 formal MOTION for the production thereof pursuant with the Local
6 Rules and under the Federal Rules of Civil Procedure (FRCP), see
7 filing of the Defendant in Document/Paper Number 43, which was
8 subsequently denied in violation of FRCP and L.R.

9 The Defendant further herein notes for the Record that the
10 Defendant is STILL WITHOUT a copy of "VRFP" as "VRFP" is made as
11 reference in numerous filings and the Defendant has duly and
12 appropriately made PLEADING and MOTION to be provided with an
13 explanation and documentation as it relates to this UNFOUNDED
14 set of Rules as many times quoted by the Plaintiff (Damian J.
15 Renzello) in this matter. See the filing of the Defendant in
16 Paper 79, duly and appropriately requesting the court to produce
17 "VRFP", whatever those are.

18 Defendant further notes that the Plaintiff has not made
19 filing of memorandum pursuant with Local Rules of the Court and
20 FRCP under L.R. 5.2(b), as the docket so reflects the Defendant
21 has so herein complied with L.R. 5.2(b), in his filing of Paper
22 66, the failure of the Plaintiff, Damian J. Renzello to make
23 filing per L.R. 5.2b is further evidence of failures of the
24 Plaintiff to abide by the rules of this Court, and the PRO SE
25 Defendant having no legal training of any kind apart from that

1 in HIGH SCHOOL has so herein made the appropriate filings as the
2 docket report so indicates of compliance with L.R. 5.2(b), see
3 page B-7, of EXHIBIT B, and further references page 6 of 16 of
4 the docket as found in EXHIBIT B annexed and attached hereto and
5 incorporated herein by reference backwards and forwards
6 throughout.

7 The Defendant does herein provide this introduction to the
8 Answer and does so backwards reference these pages via page
9 number only throughout this answer. The Defendant has on the
10 27th of February 2007, paid the sum of \$180 (one-hundred-and-
11 eighty) US Dollars to the Court Reporter, ANN Marie Coughlin,
12 see Exhibit C annexed hereto and attached herewith and
13 incorporated herein; for a copy of the transcript of the hearing
14 held on the same date, a receipt is attached herewith as an
15 Exhibit C. The Defendant is tremendously concerned and has
16 raised concerns to the Court Reporter that the Transcript from
17 the March 2006, hearing is missing several parts of testimony as
18 will be proffered by witnesses in the Court Room if necessary.

19 Specifically the Court Transcript is **missing Testimony from**
20 **Plaintiff Damian J. Renzello has it references the Harley**
21 **Davidson Motorcycle Plaintiff Damian J. Renzello admitted on the**
22 **witness stand to having purchased, this substantial negotiable**
23 **assets believed worth in excess of TWENTY THOUSAND US DOLLARS,**
24 **has yet to be formally recognized by the Court, although**
25 **detailed evidence via positive and negative and absolute proof**

1 **has been submitted to the Court via numerous pleadings and many**
2 **pleadings not yet docketed and some which have been ALTERED by**
3 **the Court,** court Alterations to the docket and filings are
4 referenced and expounded upon herein the this preliminary
5 answer.

6
7 **JURISDICTION:**

8 Defendant repeats and reavers all prior filed motions,
9 whether docketed or not docketed, however, does so repeat
10 original documents as filed prior to COURT ALTERATIONS to the
11 docket as is evidenced by digital thumb prints within the PACER
12 system. Defendant further NOTES for the record in formal
13 OBJECTION to Jurisdiction in this matter, that appeals taken to
14 the Second Circuit Court of Appeals, regarding rulings on
15 motions regarding Jurisdiction and other properly filed appeals
16 were in the words of presiding Jurist John Garvan Murtha
17 "disposed of" by the Second Circuit Court of Appeals. However,
18 the MANDATE by the Court of Appeals in their dismissal of the
19 Appeals, was structured and worded: "This Court has determined
20 sua sponte that it lacks jurisdiction over these appeals because
21 a final order has not been issued by the district court as
22 contemplated by 28 U.S.C." This MANDATE was issued without Oral
23 Arguments as requested by the Defendant pursuant with rights
24 under the Law and the Rules of the Second Circuit Court of
25 Appeals. This Mandate was NOT directed dismissal of the merits

1 of the appeals but rather a denial of jurisdiction over the
2 appeals at this time, therefore, the defendant does so herein
3 state full objection to jurisdiction and awaits the proper time
4 if necessary to file formal appeal, once "final order has been
5 issued", if necessary.

6 Furthermore, the Court of Appeals decided that "District
7 court orders denying motions to dismiss for lack of personal
8 jurisdiction or improper venue are not appeal able under the
9 collateral order doctrine." However, defendant will file formal
10 appeal upon these grounds as stated in those appeals, when and
11 if necessary after "final order" from the current litigation and
12 the counter complaints (being currently filed per WRITTEN Order
13 of Judge John Garvan Murtha, on 27 Feb. 2007, however with all
14 rights intact and thereto for filing of Counter Complaints and
15 Claims if this action is NOT settled via Court Ordered Mediation
16 with the Federal Magistrate of the US District of Vermont per
17 the Verbal Orders to amend thereto and file in full the Counter
18 Complaints and Claims).

19 Additionally the Second Circuit Court of Appeals stated:
20 "denial of a recusal motion is not an appeal able interlocutory
21 order", while this may not be an appealable interlocutory order
22 under and interlocutory appeal, the Defendant will again if
23 necessary file for formal appeal including the appeals regarding
24 Recusal of presiding Jurist John Garvan Murtha, together with
25 new evidence requiring such, including without limitation Judge

1 John Garvan Murtha's response to the Defendant as noted in the
2 docket when the Defendant, Michael Nelson, presenting himself
3 before a US Federal Court in the US District of Vermont did so
4 respectfully request "DUE PROCESS OF LAW", Judge John Garvan
5 Murtha responded, as the voice of the US District of Vermont:
6 "Court: I don't know what you are talking about." See Page 64,
7 of the Transcript entitled "Testimony at Motions Hearing",
8 prepared by Anne Marie Coughlin, RPR, Official Court Reporter.
9 Certainly a US Federal District Judge, has at least heard of DUE
10 PROCESS OF LAW? Blacks Law Dictionary defines Due Process of
11 Law in tremendous detail including this statement at the end of
12 a paragraph towards the end of the definition: "Aside from all
13 else, 'due process' means fundamental fairness and substantial
14 justice." The Defendant has only asked for MINIMAL JUSTICE
15 although the law requires SUBSTANTIAL JUSTICE as noted by the
16 United States Supreme Court in Levine vs. United States (1960)
17 and further noted Justice must satisfy the appearance of Justice
18 where the US Supreme Court noted and cited Offutt vs. United
19 States (1954).

20 The Defendant requested a "writ of mandamus" for the
21 records of a court "inferior" to the US District of Vermont, the
22 wording "inferior", herein used is used via the language
23 referencing such a writ as requested, such a writ is used to
24 procure information for a lower court or a subordinate court,
25 wherein the Superior Court of the County of Washington of the

1 State of Vermont, is certainly within the Jurisdiction of the US
2 District of Vermont, such a writ as suggested by Chambers of an
3 Associate Justice with the United States Supreme Court was a
4 proper, respectful and appropriate request, Judge John Garvan
5 Murtha presiding Jurist at the hearing speaking on behalf of the
6 COURT, and thus the United States Judiciary stated: "I have no
7 idea what you are talking about." However the US Court of
8 Appeals for the Second Circuit directly referenced said writ of
9 mandamus in it's Mandate. Further Defendant herein respectfully
10 preserves his rights, constitutionally and otherwise including
11 without limitation Article III, Section II rights and Seventh
12 Amendment Rights and rights to seek a "Writ of Prohibition", if
13 the US District of Vermont continues to: "exceeds its
14 jurisdiction or authorized power in such a manner as to
15 implicate the legality of the entire proceeding", quoting Davis
16 v. Lansing, 851 F.2d 72, 75 (2d Cir. 1988), this will include
17 without limitation refusal to docket or accept declarations
18 preserving CONSTITUTIONALLY PROTECTED RIGHTS, rights to DUE
19 PROCESS of LAW, ALTERING of Documents Submitted to the Court
20 etc.

21 Clear Objection is made to Jurisdiction on multiple grounds
22 and additionally the Defendant does so herein repeat and reaver
23 the current guiding ORDER of the Court listed as Paper 110,
24 ORDERED by Presiding Jurist John Garvan Murtha, which
25 effectively dismisses numerous "complaints" of the Plaintiff,

1 including without limitation those actions taken pursuant to:
2 18 USC 875; 17 USC 501; 17 USC 1301; and additionally raises
3 serious questions as to complaint made under 15 USC 1125(d).
4 Therefore the complaint is severely weakened to the point it may
5 not be suitable for litigation on any merits in any
6 jurisdiction.

7 All other objections, defenses, and claims pursuant with
8 previously, lawfully and dutifully filed motions and appeals are
9 herein forever preserved including without limitation FRCP 12b,
10 Title 28 USC Section 1400 and other objections contained therein
11 all the aforementioned filings and appeals.

12
13 **PARTIES**

14 Consists of two (2) paragraphs towich have been numbered: 1
15 and 2 respectively by hand see the complaint attached herewith
16 as Exhibit.

17 1. Paragraph 1, consists of statements as to which no
18 response is required, and otherwise deny, and so
19 state Plaintiff Damian J. Renzello's travel habits
20 indicate the statement may be untruthful and
21 perjures.

22 2. DENY. Plaintiff Renzello has been aware of
23 Defendant Nelson's EXACT WHEREABOUTS. Defendant
24 intends to call as witness David Seth Putter, who
25 communicated to Defendant that Mr. Renzello's

1 unwelcomed visit at Defendant's home in Las Vegas
2 was Renzello's RIGHT to inquire as to the lifestyle
3 of which the Defendant AND HIS FAMILY were living.
4 Further, Plaintiff's erroneous statement is made in
5 attempts to prejudice this Court and create unfair
6 bias against the Defendant before the Defendant has
7 had time to Answer the Complaint or Counter
8 Complaints.

9
10 Defendant herein notes for the record that Counter
11 Complaints and Claims which have already been received by the
12 Court, however, the Court CLAIMS not to have received, did list
13 a number of third party defendants and a number of others cross
14 complained of with overwhelming grounds.

15 However, presiding Jurist John Garvan Murtha has ordered
16 that the Defendant, Michael Nelson, may NOT include others in
17 this lawsuit, effectively barring the rights of the Defendant
18 and further implicating a direct usurpation of the rights of the
19 Defendant under the Constitution of these the United States of
20 America. Additionally Judge John Garvan Murtha made what was
21 taken as threatening remarks regarding the filing of new
22 litigation which appear to be again directed at the Defendant to
23 discourage protection of the Defendant's rights as afforded the
24 Defendant under Congressional Acts as they relate to the USPTO
25 presided over by Commissioner Dudas, and appear to go directly

1 against the United States Constitution, US Law and certainly
2 fundamental rights of US Citizens, see page 53 of the Transcript
3 of Testimony prepared by the Court Reporter and referenced
4 herein above from the March 2006, Evidentiary hearing in this
5 cause (litigation).

6
7 **PREVIOUS LAWSUITS:**

8 The Defendant is unaware of previous lawsuits involving
9 just the Plaintiff and the Defendant. Defendant submits that
10 Plaintiff may now be engaged in other litigation, which is
11 tangentially similar and could be moved for inclusion.
12 Additionally Defendant repeats and reavers all aforementioned
13 and previously plead pleadings and hearings regarding Plaintiff
14 Damian J. Renzello's pattern of alleged theft of companies,
15 investments, stock, trading on the names of others including THE
16 STATE OF VERMONT, see Exhibits, referencing action taken against
17 Damian J. Renzello by the State of Vermont for attempting to use
18 the State of Vermont's name, and shield to FOOL / TRICK and
19 otherwise deceive the purchasing public.

20
21 **FACTS:**

22 The next section of the Complaint lists in paragraph form a
23 number of averments which are alleged as "FACTS" by the
24 Plaintiff. The Defendant has again numbered each paragraph by
25 hand to allow for easier reference by the Court and the

1 Plaintiff regarding response thereto. Again as is stated herein
2 above under the section Parties, the Complaint with the hand-
3 written numbering as is referenced herein above and below is
4 annexed (attached hereto) for reference as Exhibit AA:

5
6 1. Paragraph 1 consists of statements NOT based in Fact.

7 Plaintiff AND Defendant BOTH had been engaged TOGETHER,
8 as "best friends" and PARTNERS in the manufacture and
9 sale of portable ice skating rinks and accessories.

10 Additionally the GENERIC brand "Porta Rinx" is NOT
11 exclusively the Plaintiffs, and as testified to by the
12 Plaintiff during the March 2006, hearing and as is
13 stated on the website: www.portarinxandbambini.com the
14 claim made is Porta Rinx is a trademark of Damian J.
15 Products, which the Defendant intends to provide
16 evidence via individual testimony of witnesses, Officers
17 of the Court (Bar Licensed Attorneys in Vermont), a
18 sitting Superior Court Judge of the State of Vermont,
19 Clerks of the Court, businessmen in the local Central
20 Vermont Community and the Plaintiff's own hand via Court
21 Records and Documents that the Defendant Michael Nelson
22 is a shareholder and member of the Company Damian J.
23 Products; and further that the mark(s) are NOT worthy of
24 any protection as contemplated under the law and that
25 the United States government should not recognize them

1 as such and the US government should not open itself to
2 international action in WTO or WIPO for recognizing.

3 2. Paragraph 2 consists of FALSE and inaccurate statements.
4 Plaintiff is CO-inventor AT BEST. Plaintiff was
5 certainly not marketer. Plaintiff came to know
6 Defendant in 1995! Prior to rink creation. Defendant
7 was at no time since creation of Damian J. Products or
8 Porta-Rinx Commercial LLC OR Porta-Rinx Residential LLC,
9 only a representative but also a shareholder of each of
10 the above herein referenced legally organized legal
11 entities. Defendant otherwise denies allegations of the
12 Plaintiff.

13 3. Paragraph 3, is FALSE and inaccurate. BOTH Plaintiff
14 and Defendant own the "innovative and distinctive"
15 GENERIC concept of a PortaRinx (PortaRinx is a GENERIC
16 branding of a Portable Rinx), like Xerox Copies, or
17 Scotch Tape, or PortaJohn (Porta = Portable); (Rinx =
18 Ice Rink), see trademarks with TESS at the USPTO, as
19 previously plead in the pleadings of the case and
20 submissions to the Court after the March 2006,
21 Evidentiary hearing.

22
23 ADDITIONALLY AND OF EXTREME IMPORTANCE is the FACT that
24 much of the "fall-out" of the PARTNERSHIP has been as a result
25 of the FACT the GENERIC Porta-Rinx the Plaintiff and Defendant

1 where in manufacture and sale of has a number of overly
2 infringing qualities to an EXISTING PATNET, originally applied
3 for according to TESS with the USPTO, on March 5, 1997; with a
4 granted US PATENT of 25 October 2005. When the Defendant
5 discovered this patent he brought it to the attention of his
6 business partner and "best friend" the Plaintiff, an argument
7 then commenced, this lawsuit and all arguments thereafter appear
8 to be as a result of this initial argument. Please see Patent
9 Number: 6,957,546.

10 4. Paragraph 4, DENY. It was NOT the Plaintiff's design to
11 assign.

12 5. Paragraph 5, DENY. The date cited is incorrect. The
13 Plaintiff and Defendant made an agreement as to the
14 operation of the Company with respect to splitting up
15 the tasks needed to be performed. Basically Plaintiff
16 was to simply handle "manufacture", ordering and DROP
17 shipping the parts, to customers and the Defendant would
18 handle sales and marketing. Otherwise deny.

19 6. Paragraph 6, DENY in its ENTIRETY. Exhibit A of
20 complaint is fabricated date! Additionally original
21 copy was produced by Defendant and copyrighted. Counter
22 Claim asserted. Otherwise DENY.

23 7. Paragraph 7, DENY. Statements by Plaintiff are Hearsay,
24 or rather simply attempts at re-writing history.
25

1 Exhibit B, of the complaint was not received by
2 Defendant except in complaint. Otherwise Deny.

3 8. Paragraph 8, DENY. Exhibit C, to the complaint is
4 FABRICATED. Third party evidence under rules of
5 evidence will be submitted to prove email headers are
6 incorrect. Defendant MUST have subpoenas for specific
7 computer information to supply the Court with proving
8 this FABRICATION. Special rules of evidence MUST apply
9 to Electronic Mail as have been adopted by the Federal
10 Courts. Otherwise DENY.

11 9. Paragraph 9, DENY. NOT TRUE. Defendant AND PLAINTIFF
12 OWNED domain names. Exhibits annexed hereto and
13 incorporated herein demonstrates that the Court did
14 receive documents from Plaintiff Damian J. Renzello and
15 then ALTERED the Docket removing the documents, one of
16 the exhibits to the documents PROVE two things, first
17 anyone can place a FROM email address in the From spot
18 on an email and Secondly and MORE importantly ONLY the
19 Plaintiff Damian J. Renzello controlled the email
20 address: vtbambini@aol.com and HE (RENZELLO) alone had
21 control to renew all the domain names, for the JOINTLY
22 held company, and Renzello ALLOWED all the Domains to
23 Expire on 30 June 2006! Additionally Renzello has
24 demonstrated bad-faith and frivolous action / litigation
25

1 in NOT renewing or otherwise registering the domains
2 which he is attempting to complain herein his complaint.

3 These statements have caused real and actual lifelong
4 damages to the Defendant, which will be counter-complained of
5 and therefore sued upon in the counter complaint when authorized
6 by the COURT to file, if necessary. DEFENDANT DENIES these
7 charges and will seek compensation for damages under counter-
8 claims when authorized to file by the court if necessary.

9 10. Paragraph 10, DENY. There HAS NEVER been
10 cybersquatting by the Defendant! The Domain
11 www.DamianJ.com was jointly held by Plaintiff and
12 Defendant. The Domain was to refer to the JOINTLY HELD
13 company Damian J. Products and further the domain has NO
14 acquired distinctiveness and certainly NOT any meaning
15 in the marketplace prior to registration. The defendant
16 if at anytime listed as the registrant had as recognized
17 by the courts a reasonable belief to believe the
18 registration was lawful or otherwise correct as noted by
19 the court in it's opinion and order. Additionally per
20 ORDER of the Court in Paper 110, "...courts have generally
21 held that personal names are not inherently distinctive.
22 See e.g. Abraham Zion Corp. v. Lebow, 761 F.2d 93, 104
23 (2d Cir. 1985) Certainly the name DamianJ has NOT
24 "become synonymous in the mind of the public . . . as a
25 word identifying" anything!